

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WINE ENTHUSIAST, INC.,

Plaintiff and Counterclaim Defendant,

against

VINOTEMP INTERNATIONAL CORPORATION,

Defendant and Counterclaim Plaintiff.
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No. 17 Civ. 6792 (DLC) (HP)

**DECLARATION OF JOELLE A. MILOV IN SUPPORT OF
WINE ENTHUSIAST, INC.'S MOTION TO BIFURCATE**

Joelle A. Milov, Esq., pursuant to 28 U.S.C. § 1746 declares that:

1. I am an associate at the firm of Cowan, Liebowitz & Latman, P.C., counsel for Plaintiff and Counterclaim Defendant Wine Enthusiast, Inc. (“Wine Enthusiast”). I submit this declaration in support of Wine Enthusiast’s Motion to Bifurcate. I make this declaration based on my personal knowledge and/or review of my firm’s files and records, and if called as a witness am competent to testify to the matters herein.

2. Defendant and Counterclaim Plaintiff Vinotemp International Corporation (“Vinotemp”) has not yet produced documents sufficient to fully identify all products sold by Wine Enthusiast that allegedly infringe Vinotemp’s purported trade dress. Based on Vinotemp’s counterclaims and other exchanges between counsel, Vinotemp apparently claims that the Evolution Series and EuroCave Revelation Series wine refrigerators sold by Wine Enthusiast infringe Vinotemp’s purported trade dress, including as shown below:

Evolution Series



EuroCave Revelation Series



3. In this action, the parties each have served and provided written responses to initial document requests and limited interrogatories pursuant to Local Rule 33.3. Neither party has produced any documents, except in connection with the separate schedule for patent disclosures regarding Vinotemp’s utility patent claim based on U.S. Patent No. 7,882,967 and its

design patent claim based on U.S. Patent No. D711,936.¹ Neither party has yet noticed any party depositions, although Wine Enthusiast has issued subpoenas on third-party retailers of Vinotemp products seeking testimony and documents primarily concerning Vinotemp's purported trade dress.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT. EXECUTED ON the 4th day of October, 2018 AT NEW YORK, NEW YORK.



Joelle A. Milov

¹ By Opinion and Order, this Court dismissed Vinotemp's Design Patent claim on July 19, 2018 (Dkt. 42). Discovery on that claim ceased on or about that date.